



Policy Memo 2

Labor rights for refugees and migrant workers: how to make them a living reality?

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In brief

In light of migrant workers' and refugees' legal and economic vulnerabilities, the proper understanding of the applicable legal framework and rights is key to guaranteeing that they may enjoy dignified employment and living conditions. It is also crucial to their active participation in the host community's economic growth and societal development, thus overcoming marginalization and disenfranchisement.

Based on the Arab Renaissance for Democracy and Development's (ARDD) consultations with the Migrant Workers Committee in Jordan¹, further supported by research and analysis, the brief proposes the following **10 recommendations** to make refugees' and migrant workers' enjoyment of labor rights a living reality:

- 1- Invest in quality **data gathering** in the field of labor rights for migrant workers and refugees.
- 2- Use **disaggregated data to better reflect** the specific struggles faced by migrant workers and refugees in different working sectors
- 3- **Build capacity through diversified 'rights & duties' education opportunities** for both migrant workers and refugees, and for grassroots organizations working with them.
- 4- Reinforce the **network of migrant workers and refugees** as bridges for effective communication and exchange with their communities.
- 5- Conduct **joint advocacy campaigns** with local and international organizations to strengthen domestic legal frameworks and policies, as well as businesses' compliance with international standards, including on: (1) abolition of **sponsorship system**; (2) preventing **confiscation of passports** by employers; (3) **harmonization the minimum wage** if foreign workers with that of the local labor force; (4) **preventing the deportation** of migrant workers during a judicial process.
- 6- Build effective **partnerships with relevant institutions** and professional categories (judges, lawmakers, lawyers, businesspeople, law enforcement agents) to make known the rights of and issues pertaining to migrant workers and refugees and thus enhance their legal and economic protection.
- 7- Lobby for a **decrease in working permit fees** for migrant workers and refugees.
- 8- Support the creation of **inspection systems** to identify and address violations of labor rights.
- 9- **Build infrastructures, such as shelters**, that can welcome victims of abuse, in order to guarantee their safety and their ability to access justice.
- 10- **Involve traditional and social media** in promoting a fair account of the reality experienced by migrant workers and refugees.

¹ This committee, including 30 representatives of various non-national (migrant worker and refugee) communities in Jordan, is set up and supported through the ARDD's Haquna project.

Introduction

Raising awareness about the situation of migrants and refugees in the region and triggering change constitute an essential part of ARDD's mission concerning vulnerable groups. Legal aid for and protection of migrant workers and refugees has been one of ARDD's main drives. While working primarily in Jordan, ARDD aims to expand its work to other places in the region, build the capacity of legal organizations in places where legal aid for these vulnerable groups is critically lacking, and to strengthen partnerships with legal aid peers to make access to rights a living reality. In this light, this policy brief:

1. Builds on the challenges faced by migrant workers and refugees in enjoying their labor rights.
2. Provides actionable recommendations to facilitate the achievement of decent employment and living conditions for vulnerable groups.
3. Serves both as a synopsis to better understand the status of migrant workers and refugees in Jordan as far as their protection is concerned (as relevant consultations leading to the policy memo were conducted), and as a road map for current and future partners in the region, who wish to work with us. This synopsis helps build on our experience, achievements, and lessons learned.

The context: main features of the Arab job market for migrants and refugees

The high number of refugee and migrant workers shapes the job market of many countries in the Arab region, from the Maghreb to the Mashrek and Gulf countries: the share of foreign workers of the employed population of Arab countries is significant, reaching 37% in Saudi Arabia, 50% in Jordan and as much as 90% in Qatar. This requires that the legal and policy framework regulating employment take into account the presence of non-nationals in the labor force.

A number of governments in the region, in cooperation with agencies such as ILO (but also UNHCR and UNRWA), have taken steps to regulate the labor market through a normative framework that guarantees the protection of all workers and to meet international standards in assuring equal treatment and access to decent work conditions to national and non-national workers. In Jordan, international human rights conventions aiming at guaranteeing rights and preventing exploitation have become part of the domestic framework, and inform the approach to the protection of migrant workers and refugees, consistent with that applicable to Jordanians. Jordan is the only country in the Arab region that has piloted the Global Jobs Pact and other international programs aiming at minimizing forced labor and improving labor migration governance.

ARDD along with other civil society organizations has welcomed these efforts while continuing to advocate for the improvement of living and working conditions of migrant workers and refugees in Jordan; however, gaps in ensuring protection still exist at policy and implementation levels. For years, ARDD has been advocating for comprehensive legal strategies that would facilitate safe and fair access to the job market for migrants and refugees. Despite the institutional commitment toward securing better working conditions, the migrant workers', and refugees' enjoyment of labor rights in Jordan and in many other countries in the region remains precarious. Migrant workers and refugees often face abuse and exploitation. As noted by the Anti-Human Trafficking National Committee, cases of human trafficking continue to be reported. Human rights organizations highlighted how the COVID-19 pandemic has had a particularly detrimental impact on non-nationals, with numerous cases of workers abused, refused pay, and access to other benefits.

ARDD has been supporting migrant workers and refugees to have their voices heard and has been attempting to identify the main root causes of their precarious working and living conditions. A major concern, as highlighted by non-national workers as well as legal aid providers, relates to Jordan's immigration and work permit system that regulates the stay and ability to work of non-Jordanians in the country. This system is based on two main principles: 1) employers act as **sponsors** for migrant workers. Without this sponsorship, workers cannot enter Jordan. All expenses for the issuance of working and residence permits should be covered by the employer. This sponsorship mechanism is known as the kafala system; 2) Workers should be employed full-time and by one single employer at a time, on a one-year basis. Taken together, these two fundamental factors that regulate migrant workers' status in Jordan create discrepancies between workers' and employers' interests and allow for exploitation and lack of rights. First: workers are totally dependent on employers and cannot negotiate the terms of their contract, given the unbalanced power relations that characterize their working status. This has a detrimental impact on the enjoyment of their labor rights. Second: employers -especially in seasonal jobs, such as in the agricultural or tourist sectors- do not want to commit to full-time one-year contracts. This often leads to migrant workers losing their legal status and working illegally, with the risk of abuse and precarious living conditions.

Refugees, who are not tied to jobs through the sponsorship system as they are already present in the country, face different but similarly concerning limits in enjoying working rights: they are requested to apply

for a working permit, which they often cannot afford. Moreover, the risk of losing humanitarian assistance by applying for a (costly) temporary working permit is often a major concern for refugees who therefore end up working illegally.

Labor rights or labor risks? Challenges and constraints for migrant workers and refugees

Jordan showcases common problems in the region, with abuses, exploitation, and difficult working conditions for migrant workers and refugees remaining a reality and undermining migrant workers' ability to enjoy their rights and fully integrate into the country's job market, economy, and society. The situation is even more complicated for refugees who struggle to access the labor market in most Arab countries, and even in Jordan, they face constraints and challenges. In this context, civil society and human rights organizations are essential to monitoring working conditions, denouncing gaps in access to and protection of labor rights, and identifying the causes and effects of the lack of mechanisms to prevent abuse and exploitation.

The sponsorship system, or the kafala system, remains a major concern for migrant workers. Abuses and challenges linked to it are reported by migrant workers in all sectors and are particularly common among domestic workers and workers in the agricultural sector. Complaints are commonly related to:

- **Salary payments: late payment of wages or non-payment for overtime** are very common in agriculture and domestic work. Payment for overtime is well enforced in parts of the manufacturing sector, but workers in tourism and other sectors are rarely adequately remunerated. Many domestic workers report having their **salaries withheld** by employers or by recruitment agencies.
- Migrant workers in all sectors complain about the **heavy manual labor** expected of them, which is particularly difficult for older workers.
- **Long and unpredictable working hours:** in all sectors, long working hours, reaching and sometimes surpassing 13 daily hours, are expected from migrant workers. In the agriculture, and construction sectors, as well as domestic work and security (i.e. night guards) working hours regularly, surpass the internationally recommended limits. Domestic workers often report **not being entitled to their day off**.
- **Losing legal status:** many migrant workers report losing their legal status and becoming "irregular" in Jordan due to the impossibility of renewing their working permits. This is a direct consequence of the sponsorship system: the employer cannot provide a one-year contract and make social security contributions necessary for a work permit, and as a result, the employees lose it, because the employer decides not to renew a work permit or because the worker runs away from an employer. Tragically, there are no mechanisms to allow workers to change sponsors or work. This is a particularly dangerous situation that impacts many aspects of migrant workers' life. They cannot access basic services, fearing detention and/or deportation due to their illegal status unless rectified.
- Many domestic workers, as well as agricultural workers, have their **passports withheld** by employers and recruitment agencies. Some of them receive their passports after paying a certain amount of money to the employer.
- Domestic workers often report **psychological abuse**, intimidation, humiliation, insults and inappropriate living conditions, including limited food. Instances of domestic workers complaining about **physical abuse**, harassment, and sometimes rape are not infrequent. The real dimension of this phenomenon remains underreported because of the migrant workers' fear of further abuse or retaliation after denouncing a violation that is anyway difficult to prove.

From experience to shared resources

ARDD has been advocating for the improvement of the working and living conditions of migrant workers for over a decade. Building local and regional partnerships with civil society and human rights organizations to advance strategies to address the challenges faced by migrant workers and refugees in accessing labor rights remains a priority. Based on its experience and its consultations with migrant workers and refugees, ARDD recommends the following:

1- *Invest in quality data gathering through targeted research in the field to identify the challenges faced by migrant workers and be able to provide the needed support and assistance.*

Collaboration with migrant workers and refugees is fundamental to grasping the reality and devising adequate strategies to guarantee labor rights and adequate protection. Investing in participatory, action-oriented research that builds on and reinforces partnerships among researchers, stakeholders, and community members is key: data is relevant to real-world contexts, and the outcome and responses may be more effectively translated into community knowledge, and tailored strategies and policies to support people in need.

2- *Reveal specific vulnerabilities by providing disaggregated data that uncovers the specific struggles faced by migrant workers and refugees in different working sectors, and according to their status and conditions, with particular attention to gender, age, ethnic group, and health conditions.*

Building on the participatory approach to research, focus groups, interviews, and data collection should reflect the complexity and variety of the population. This will enhance the relevance of research on the different categories that compose it. The disaggregation of labor market related data facilitates an understanding of the challenges and struggles faced by specific groups and is key to identifying specific responses and targeted support for the most vulnerable categories.

3- *Build capacity through diversified education opportunities by providing informative sessions on rights and duties of migrant workers and refugees, as well as their support groups.*

This can be achieved through periodic seminars and workshops on pertinent legislation for different members of the community, and the grassroots organizations supporting them, with the contribution of legal experts and mediators, and the participation of stakeholders (e.g., from the private sector). These sessions, aiming to strengthen the understanding of the local legal system, should involve workers and refugees, and their direct experience in the labor market, to facilitate the understanding of the reality of the legal system and the common challenges faced by vulnerable groups.

4- *Reinforce networks of migrant workers and refugees to disseminate information about the rights they are entitled to.*

Strengthening the migrant worker and refugee networks helps disseminate information about rights and relevant opportunities among their communities. It also enhances migrant workers' and refugees' ability to make their voices heard by relevant stakeholders -both in the host country and in countries of origin- and link them to the global dialogue on the relevant treaties and UN practice (including the Global Compacts).

5- *Sustain advocacy campaigns jointly with civil society organizations as well as international institutions such as ILO to ensure the compliance of the national legislative framework and business code of conduct with international standards, as well as its effective implementation.*

Exert coordinated efforts with institutional actors and non-governmental organizations, as well as with international institutions, to articulate and implement policies and the legislative framework that guarantee protection of migrant workers and refugees, and ensures that they enjoy their rights. Among the most urgent legal measures that should be taken to guarantee the migrant workers' and refugees' rights are:

- reforming the **sponsorship system and expanding flexible work system**;
- setting monitoring mechanisms in place to prevent the **withholding of workers' passports** by employers;
- **unifying the minimum wage** for Jordanians and non-Jordanian workers;
- **preventing the deportation** of migrant workers during a judicial process.

6- *Build effective partnerships with relevant institutions and professional categories to form and train, for example, lawmakers, judges, and judicial staff, businesspeople, and law-enforcement agents on the legal status and rights of migrant workers and refugees.*

Specific training programs should be organized for judges, lawmakers, as well as lawyers, judicial staff, and law-enforcement agents on the body of laws applicable to migrant workers and refugees, in order to ensure that these enjoy their labor and legal rights.

7- *Lobby to decrease working permit fees for migrant workers and refugees.*

This would encourage refugees and migrant workers to apply for work permits, rather than working illegally, also reducing instances of exploitation in the informal market. The positive impact would be a higher labor force in the economy. This can only happen in an environment that values the presence of non-citizens, considering them a resource, as economic research finds, and not a threat.

8- *Support institutional bodies to create an inspection system able to identify abuses and violations of workers' rights.*

Civil society organizations should cooperate with government actors and businesses to train inspectors in order to find appropriate mechanisms for regular follow-ups on the conditions of workers and to ensure that protective laws and policies, when they exist, are applied without discrimination or distortion.

9- *Build infrastructure to facilitate the protection and enjoyment of rights for migrant workers.*

Appropriate shelters for victims of abuse, trafficking, and other forms of violation and exploitation should be established in order to guarantee the safety of migrant workers and refugees, and their ability to access justice.

10- *Involve traditional and social media in promoting a fair account of the reality experienced by refugees and migrant workers.*

This can be implemented by informing media professionals about the plight of refugees and migrant workers, guaranteeing the correct dissemination of information, and cooperating in the design of programs and media spaces that enable migrant workers and refugees to share their stories and make their voices heard.

Advancing Haquna (Our rights)

In the context of the joint Haquna initiative, ARDD and Heinrich-Böll-Stiftung Palestine and Jordan (HBS) promote means that guarantee respect for the rights of migrant workers and refugees and raise awareness about ways to improve their living conditions to give rise to peaceful societies

Disclaimer

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